

2006-03-02 PM 12:31
U.S. District Court
Cleveland

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**SULTAN HANIF ABDULLAH,
aka ANDRE McGEE,**

Plaintiff,

v.

BELINDA SPAIN, et al.,

Defendant.

) **CASE NO. 1:04 CV 1900**
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) **JUDGE DONALD C. NUGENT**
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) **MEMORANDUM OPINION**

This matter is before the Court upon the Report and Recommendation of Magistrate Judge David S. Perelman (Docket #25) recommending that the Court dismiss Plaintiff's Complaint. On January 6, 2006, Plaintiff filed his Motion to Dismiss Lawsuit (Docket #24). No objections to the Report and Recommendation were filed. The Report and Recommendation is hereby ADOPTED by this Court.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable standard of review for a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case de novo.

FED. R. CIV. P. 72(b) states:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

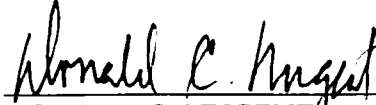
The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. In regard to subsection (b) of Rule 72, the advisory committee stated: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted).

The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."

Conclusion

Plaintiff moved to dismiss this case. The Magistrate Judge recommended that Plaintiff's Motion be granted. No objections to the Magistrate Judge's Report and Recommendation were filed. Accordingly, the Report and Recommendation of Magistrate Judge Perelman (Docket #25) is hereby ADOPTED. Plaintiff's Motion to Dismiss Lawsuit (Docket #24) is hereby GRANTED and Plaintiff's Complaint is DISMISSED.

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: March 2, 2006